

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)	No. 12 CR 872
)	
Plaintiff,)	Chicago, Illinois
)	July 19, 2013
)	10:00 o'clock a.m.
-vs-)	
)	
CHERRON MARIE PHILLIPS,)	
)	
Defendant.)	

TRANSCRIPT OF PROCEEDINGS - STATUS/TELEPHONE CONFERENCE
BEFORE THE HONORABLE MILTON I. SHADUR

APPEARANCES:

For the Plaintiff: HON. GARY SHAPIRO, by
MR. NATHAN D. STUMP
Special Assistant United States Attorney
9 Executive Drive
Fairview Heights, Illinois 62208

For the Defendant: Cherron Marie Phillips, pro se
P.O. Box 802625
Chicago, Illinois

ALSO PRESENT: FEDERAL DEFENDER PROGRAM
55 East Monroe Street
Suite 2800
Chicago, Illinois 60603
BY: MS. ISELA ANTUNEZ
MR. PIYUCH CHANDRA

Court Reporter: ROSEMARY SCARPELLI
219 South Dearborn Street
Room 2304A
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1 THE CLERK: 12 CR 872, USA versus Cherron Marie
2 Phillips, motion hearing.

3 MR. STUMP: Good morning, your Honor, Nathan Stump
4 on behalf of the United States.

5 THE DEFENDANT: Good morning, your Honor, River on
6 behalf of defendant Cherron Phillips.

7 THE COURT: Good morning. As you know we had put
8 this one over until today so you could decide how you wanted
9 to handle the standby counsel arrangements. Have you decided
10 that -- whether you would be retaining someone yourself or
11 whether you would seek to have someone from the Federal
12 Defender Program do that?

13 THE DEFENDANT: It appears that I -- the defendant
14 will be proceeding without counsel.

15 THE COURT: I know you are going to be proceeding
16 without counsel, but I am going to appoint standby counsel
17 for you. And so my question -- you didn't respond to my
18 question, which is, in terms of standby counsel, the purpose
19 of putting it over until today was for you to explore, as you
20 had indicated, whether you wanted to choose someone of your
21 own choice and make arrangements for however you wanted to do
22 that, to play that part for you to assist you to the extent
23 that you need assistance during the course of the trial. And
24 that -- and as I had said last time, if you were -- if you
25 were -- if you decided not to have someone designated of your

1 own choice, the answer was going to be I would appoint
2 somebody from the Federal Defender Program to play that role.

3 So maybe you didn't hear my question. Have you
4 decided that -- have you not decided to have someone of your
5 own choice act as standby counsel for you?

6 THE DEFENDANT: Well, the individual that I had in
7 mind declined to come in here today.

8 THE COURT: Okay. So that means that you are not
9 going to be using that individual?

10 THE DEFENDANT: I won't be using that individual.

11 THE COURT: Okay. So I am going to appoint
12 somebody from the Federal Defender Panel to do that. And as
13 I indicated last time, their procedure ordinarily is to
14 designate someone as the duty lawyer in the system for that
15 -- for a particular day. And when an issue arises that has
16 that -- that has a need for someone, that duty attorney is
17 the one who is appointed for that purpose, unless that
18 presents some kind of conflict of interest, as sometimes
19 happen. For example, they cannot have a duty lawyer in which
20 a Panel member is representing let's say a co-defendant.
21 They can't do that. But that is not the situation here.
22 Here we have a single-defendant case.

23 And my list that I am provided at the beginning of
24 the month in connection with the attorney schedule for July
25 shows that today being the 19th, it is a staff attorney and

1 it is Imani Ciphe of that office. So let me -- Sonya, why
2 don't you call the office. It is 312. Mr. Ciphe's number is
3 612-2029. Because I want to find out if he is already been
4 committed for something as a result of his being duty
5 attorney for the day.

6 MR. STUMP: Your Honor, I don't know if it will
7 come up, but I don't know that -- you know, this case also
8 will involve discussions of the trial of Devon Phillips. I
9 don't know if their office had anything to do with that, but
10 that just may be something we want to alert him to.

11 THE DEFENDANT: Your Honor, if I may --

12 THE COURT: Yes?

13 THE DEFENDANT: -- I would like to object to
14 standby counsel.

15 THE CLERK: He is not there. His voice mail.

16 THE COURT: Just leave a message for him.

17 (Brief pause.)

18 THE COURT: And what is the ground for your
19 objection?

20 THE DEFENDANT: I think that it would prejudice the
21 defendant.

22 THE COURT: Well, that is a nonstarter. And the
23 reason it will not prejudice the interests of the defendant
24 is this: I have made the finding based on the inquiry at the
25 last session that you -- that you are -- although because you

1 are not -- do not lack competence in the legal sense, you are
2 entitled to exercise the constitutional right that you have
3 identified to represent yourself. That, however, does not
4 carry with it as a one-to-one correlation the knowledge --
5 the existence of an ability to handle a trial. It is very
6 clear from what has happened before this and up to now that
7 you are not in a position to handle all aspects of a trial.
8 There are a great many that you cannot.

9 You have represented familiarity, for example, with
10 the Federal Rules of Evidence. Those are extraordinarily
11 complex. And I can -- I can assure you that if you were to
12 be given a quiz on that, you would have a great deal of
13 difficulty with a lot of things. I am not saying that
14 critically, you understand, because it is not the province of
15 a nonlawyer to have a working familiarity with the Federal
16 Rules of Evidence in the way that means they can be handled
17 at a trial.

18 Similarly you have indicated a familiarity with the
19 Federal Rules of Criminal Procedure. And I did not follow-up
20 in terms of particularization, but I am confident that any
21 such inquiry would reflect the fact that you are really not
22 equipped to handle the intricacies of a trial in that regard.

23 So it is not a matter of prejudice to your
24 interests at all. Quite the contrary. If you had to
25 flounder around on your own in connection with a trial, it

1 would create an impossible kind of procedure to go ahead with
2 a trial. And I am not going to subject anyone to that. I am
3 not going to subject prospective jurors to that, to whatever
4 vicissitudes you may create by your activity. And you
5 understand that the standby counsel is not your lawyer. If
6 -- well, let me add one other thing.

7 You talk about prejudice. One thing that
8 potentially could prejudice someone in your position, as I
9 would see it, is to have a situation in which the judge had
10 to consistently intercede where you were committing errors in
11 connection with the thing, because I don't want the jury to
12 get a sense that you ought to be judged by or convicted based
13 upon the ordinary kinds of procedural deficiencies that
14 necessarily apply to someone who has not practiced law.

15 And so it is exactly the opposite of prejudice to
16 you that is represented by the appointment of standby
17 counsel. And I want to add if you don't understand that,
18 then you are even more deficient in those things than I would
19 think.

20 I want to make sure that this is a fair trial. You
21 are entitled to that. You have chosen to exercise the
22 constitutional right to represent yourself. I respect that.
23 I will honor it. But you demonstrate by a constant
24 resistance to anything that is offered to try to assist you
25 in that process that you really are not equipped to do it.

1 You are not bringing the right mindset to the process.

2 So I -- what I want to do is to have you in a
3 situation which you can meet with, confer with a -- someone
4 who is there to assist you to the extent that you determine
5 during the course of matters that it is going to be useful to
6 you to have the opportunity to consult with somebody who is
7 knowledgeable, as you are not, about the intricacies of
8 trial.

9 THE DEFENDANT: Sir --

10 THE COURT: And so that is -- that is really the
11 message.

12 THE DEFENDANT: And based on what you just stated,
13 if you -- if the defendant has the right to exercise a
14 constitutional right to defend themselves, wouldn't standby
15 counsel be just the opposite of that?

16 THE COURT: No.

17 THE DEFENDANT: Would it not?

18 THE COURT: Not at all. Not at all.

19 THE DEFENDANT: Because then there wouldn't you --

20 THE COURT: Because I am not obligating you to do
21 anything in this respect.

22 The -- you know, it is -- it is extraordinarily
23 difficult to deal with someone who says, "Don't argue facts
24 with me; my mind is made up." And that is what you are
25 demonstrating and have consistently done that. If you would

1 just listen and think what I have said to you, you would
2 recognize that this is for your benefit, not for your
3 detriment. And I don't know -- you know, I can't persuade
4 you, obviously, because you are demonstrating a sort of
5 bullheadedness that resists the idea of thinking logically
6 about matters that are -- I seek to present to you logically.

7 I don't control you that way either. You know, you
8 are going to make your own -- to the extent you make
9 mistakes, you will make mistakes. But I am trying to
10 minimize those in connection with a trial, which assists you.
11 It doesn't operate to your detriment. And you stand here and
12 the thing -- and what I say goes over your head like waves.
13 You don't seem to listen at all. You are just getting ready
14 to say, "I won't do it."

15 And I am troubled by that because you somehow don't
16 seem to grasp the idea that your exercise of a constitutional
17 right doesn't entitle you, for example, to create a -- to
18 create a mess out of a trial because that is going to operate
19 to your detriment, not to your benefit. Now, I can't -- I
20 can't elaborate more than that.

21 Now, I have left word. And I will tell you what,
22 call Carol Brook for me. She is the head of the program.
23 Wait a minute. I have got their numbers here someplace. She
24 is at 312-621-8339.

25 THE CLERK: Carol Brook?

1 THE COURT: Yes, she is the Executive Director.

2 THE CLERK: Good morning. May I speak to Carol
3 Brook's assistant?

4 A FEMALE VOICE: She just stepped out for a break.
5 Can she call you back in 45 minutes?

6 THE CLERK: Yes, that will be fine.

7 THE COURT: No, it will not be fine.

8 THE CLERK: No?

9 THE COURT: No, I can't have this -- is -- are you
10 still on with them?

11 THE CLERK: She just hung up.

12 THE COURT: Call back and say 45 minutes will not
13 be fine.

14 THE CLERK: Okay.

15 THE DEFENDANT: Your Honor --

16 THE COURT: Operator is 621-8300.

17 THE CLERK: 8300?

18 THE COURT: Yep, that is their --

19 MR. STUMP: That is what happens when a judge calls
20 our office, your Honor.

21 THE COURT: Pardon?

22 MR. STUMP: That is what happens when a judge calls
23 our office. Somebody gets ahold of them.

24 THE COURT: I am aware of that.

25 You people have not entered the 21st Century with

1 the phone system.

2 THE CLERK: Oh, hold on. Judge Shadur would like
3 to talk to you. Please hold.

4 Okay. Are you there?

5 MS. ANTUNEZ: Yes, I am.

6 THE CLERK: Okay, Judge.

7 THE COURT: This is Judge Shadur. I am calling in
8 connection with a matter on which --

9 MS. ANTUNEZ: I can barely hear you. I am sorry. I
10 don't know if we are on speaker or something, but I can
11 barely hear.

12 THE COURT: All right. Better now?

13 MS. ANTUNEZ: Not really.

14 THE COURT: What is the problem here?

15 THE CLERK: You know what, hang up. I am going to
16 call you from another system.

17 Hello, this is Sonya from Judge Shadur. Can you
18 hear me now?

19 MS. ANTUNEZ: It is big old echo, but I can hear
20 you.

21 THE COURT: All right. This is Judge Shadur and I
22 am here in court with a need to appoint one of the members of
23 the Federal Defender Program as standby counsel in a case
24 that is going to be tried here by someone who has chosen to
25 exercise her constitutional right to represent herself. My

1 listing of the attorney schedule shows that Imani Ciphe is
2 the duty attorney for today.

3 MS. ANTUNEZ: Okay.

4 THE COURT: Is he around or unavailable? What is
5 the situation?

6 MS. ANTUNEZ: Hold on a moment. He just walked in.
7 Hold on a moment, Judge. Thank you.

8 The attorney on duty is Paul Flynn.

9 THE COURT: Is who?

10 MS. ANTUNEZ: Paul Flynn.

11 THE COURT: Oh, really. I had the beginning of the
12 month list and Mr. Chiphe had been shown. But if he is the
13 duty attorney, I will talk with Paul Flynn.

14 MS. ANTUNEZ: Okay. Let me see if Mr. Flynn is
15 here and not at court.

16 THE COURT: Thank you.

17 MS. ANTUNEZ: Thank you.

18 (Brief pause.)

19 THE COURT: Yes?

20 MS. ANTUNEZ: Paul Flynn is out sick, but Piyush
21 Chandra stood in for him.

22 THE COURT: I would very much appreciate your
23 reaching him because it would be important for him at the
24 earliest possible opportunity to come to my courtroom because
25 of the need for.

1 MS. ANTUNEZ: Standby.

2 THE COURT: -- services, okay?

3 MS. ANTUNEZ: Okay. What number should he call
4 back or should he just go to the courtroom? What do you want
5 him to do?

6 THE COURT: Find out when he is going to be
7 available and call back. Sonya will give you the number you
8 should call.

9 MS. ANTUNEZ: Okay.

10 THE CLERK: 312-435-5766.

11 MS. ANTUNEZ: Okay. I will let him know.

12 THE COURT: Thank you.

13 MS. ANTUNEZ: You are welcome, Judge. Thank you.

14 THE COURT: Bye-bye.

15 Well, we are going to have to have some further
16 information, but in the meantime let's go on to other things,
17 if we may. The -- we have to set up a voir dire conference
18 which is, as I think you probably know, Miss Phillips, the
19 meeting that takes place in advance of trial for purposes of
20 explaining trial procedures. And this is done, by the way,
21 in situations where there are lawyers. It is not limited to
22 a situation where someone has chosen to represent himself or
23 herself because we have to talk about the procedure that we
24 follow for selecting a jury, the other aspects of procedures.

25 And what I would like to do in that regard is to

1 have the -- set it up so that you have had the opportunity,
2 to the extent that you want, to confer with whoever is going
3 to be acting as standby counsel, to do that, and then for us
4 to have our meeting which will cover the kinds of things that
5 I have talked about. And that obviously ought to have
6 several days lead time before the July 29th commencement
7 date.

8 Now as it happens I have -- I had time that got
9 cleared away on Tuesday afternoon. I don't know whether that
10 would be convenient for both you and Government counsel
11 because what we would do is to go through, as I say, the
12 explanation about procedures to be followed, and I would be
13 in a position to answer questions that you might have about
14 that. And basically set up what I characterize as the game
15 plan for the trial, in other words, procedures and how we go
16 about the selection process and matters of that nature.

17 Now, is there any problem with a Tuesday afternoon
18 time let's say at 1:30?

19 MR. STUMP: Your Honor, do you know about how long
20 you expect that might last?

21 THE COURT: I would know if I were dealing with
22 counsel, but my guess is that it will probably last -- I am
23 sure it will last an hour to an hour and a half anyway for
24 sure.

25 MR. STUMP: Your Honor, I can be available at 1:30

1 on Tuesday afternoon.

2 THE COURT: How is it for you, Miss Phillips?

3 THE DEFENDANT: 1:30 on Tuesday afternoon is fine.

4 THE COURT: Okay.

5 THE DEFENDANT: But I have to ask now, your Honor,
6 are you compelling me to perform with a Public Defender?

7 THE COURT: I said I am not compelling you to do
8 anything. I am saying that I want to give you the
9 opportunity to confer to the extent that you desire with the
10 member of the Federal Defender Program who will be standby
11 counsel so that you might get information about questions
12 that you would want to ask of that nature, although I am
13 going to be available to answer whatever questions. So I am
14 not compelling you to do anything.

15 THE DEFENDANT: Okay. I would rather not -- again
16 I just want to make myself clear. I would rather not have
17 standby counsel in this matter.

18 THE COURT: Well, you lose on that one because I
19 find that you are not competent to proceed without the
20 availability of standby counsel. You haven't demonstrated
21 that. What you have demonstrated instead is your desire,
22 which I am honoring, to represent yourself. But you can't
23 make a mess of things by mistaken aspects of how you think
24 something has to be done in the process. So what I am -- all
25 I am saying is that you are going to have the opportunity to

1 prepare yourself in the way that you wish. Nobody is
2 compelling you to do anything on that.

3 On the other hand if, for example, you are going to
4 be proposing to argue matters that are not permissible to
5 argue, then you would expect that I would have to be ruling
6 on that. And the point that I tried to make a little earlier
7 is that I -- that we never know how a jury is going to
8 respond if, for example, they get a sense that someone is not
9 in a position to handle a matter. And I don't want them to
10 have a sense like that rub off in terms of how they would
11 decide the case that you are charged with because we always
12 want to make sure that jurors make a decision based on what
13 the evidence is and what the law is on the -- that they apply
14 to the evidence and not on extraneous matters.

15 So it is really an effort, although you don't --
16 you won't acknowledge it and you don't seem to recognize
17 it -- it is really an effort to assist you in terms of the
18 process of being able to represent yourself. And so I don't
19 know how to make it more plain. But again I am not
20 compelling you to do anything in that regard. I am giving
21 you an opportunity to do it if you want. But that is your
22 choice. Your call, not mine. Okay?

23 THE DEFENDANT: Okay.

24 THE COURT: All right. So what I will -- what I
25 will do, as soon as I get this information, is I will find

1 out who the lawyer is going to be, make arrangements that to
2 the extent you want to consult with counsel, you will have
3 the opportunity to do that. We will give the means of
4 communicating, you know, by the phone number, however you
5 want to do it. That is up to you. Not required.
6 Understood?

7 THE DEFENDANT: Well, again I won't be
8 communicating with them. That is --

9 THE COURT: That is your choice. I am not --

10 THE DEFENDANT: Because again I feel that would
11 prejudice the defendant, and I will not be communicating,
12 sir.

13 THE COURT: You know, I commented earlier today in
14 a different context -- do you ever read The New Yorker
15 magazine?

16 THE DEFENDANT: I am sorry, I don't get a chance to
17 read The New Yorker magazine.

18 THE COURT: Well, New Yorker magazine used to have
19 a practice when an article -- one of their lead articles
20 would finish let's say halfway down the column of the page,
21 they would have to get a filler to go in. And they used to
22 caption the filler the Department of Clotted Nonsense. And I
23 don't want to have any clotted nonsense.

24 I am trying to preserve your interests and your
25 rights, not to impact on them adversely. And I wish that you

1 would -- I could somehow get that message over to you,
2 although you don't seem to respond to it. But you don't have
3 to believe me I guess if you don't want.

4 Anyhow, so I am going to make the opportunity
5 available to you, again with the understanding it is not
6 going to be required. Okay?

7 Now let me turn to some other subjects in
8 connection with the preparation for the voir dire conference.
9 Have you put together a set of proposed jury instructions?

10 MR. STUMP: I have, your Honor. I brought them
11 with me. I didn't get an opportunity to file them before
12 this morning's hearing, but I have a copy with me.

13 THE COURT: You don't have to. They don't actually
14 get filed.

15 MR. STUMP: Oh, yes.

16 THE COURT: Remember they get reposed with one copy
17 for Miss Phillips so that she has access to them and a copy
18 for me as well. And I assume that they are numbered so that
19 -- for identification purposes, right?

20 MR. STUMP: Yes, sir, they are numbered and they
21 refer to the pattern instructions.

22 THE COURT: The second question that I have had to
23 do with the thing that I mentioned the other day, and that is
24 that when it comes to selecting jurors, we want to be in the
25 position to give them the names of anyone about whom they may

1 hear as well as from whom they may hear. In other words it
2 is not a list of witnesses, it is a list of names that may
3 come up during the trial which would include both individuals
4 and institutions that you would -- I don't know if you had a
5 chance to prepare that or not.

6 MR. STUMP: Yes, sir, that is ready as well. I
7 brought a copy -- two copies with me today.

8 THE COURT: All right. Miss Phillips, I would
9 expect in anticipation of our voir dire conference you will
10 take a look at that and if there are other names that you
11 think ought to be used for that purpose -- let me tell you
12 what the purpose is. The purpose is that when we have a jury
13 in the box, I read off a list of names. And if anybody knows
14 the person or has dealt with the organization that is
15 referred to, we want to find out about that because we want
16 to make sure that we have impartial jurors, nobody is related
17 to somebody else, and so on. So if you will -- when you get
18 the Government list, if you will examine it and see whether
19 there are any other names that you would want to have added
20 for my purposes of reading off the list to prospective
21 jurors, you can do that before we meet then let's say next
22 Tuesday. Okay?

23 THE DEFENDANT: Okay. I would like to ask, your
24 Honor, if --

25 THE COURT: Sure.

1 THE DEFENDANT: The last time you mentioned -- is
2 is there an opportunity for another pretrial conference in
3 chambers between us -- the plaintiff and the defendant and
4 yourself? Is there an opportunity to do that prior to the
5 voir dire?

6 THE COURT: I don't know what you are talking
7 about, a pretrial conference.

8 MR. STUMP: Your Honor, just to be clear, we had
9 some communication on our end -- and I don't know where we
10 got it -- that there was going to be a final pretrial
11 conference Monday morning I believe.

12 THE COURT: No, no.

13 MR. STUMP: I believe that this is now the voir
14 dire conference Tuesday afternoon.

15 THE COURT: I am talking about voir dire
16 conference. And everything that I do is a matter of public
17 record. I don't engage in things in chambers. I don't meet
18 or talk with any litigant separately and I don't do it -- I
19 wouldn't do it in chambers or off the record basically
20 unless, for example, the safety of some confidential
21 informant were involved or something of that nature where
22 somebody is -- somebody is at risk by reason of disclosure.
23 But there is nothing of that nature in this case.

24 THE DEFENDANT: I didn't mean to say in chambers.
25 I apologize. I was just under the impression that there were

1 going to be a pretrial conference.

2 THE COURT: No, what you call a pretrial is this
3 voir dire conference. That is what I was talking about,
4 which is basically a meeting for purposes of -- and it takes
5 place right here. What happens is I don't wear a robe, we
6 sit around the table. Rosemary is here so that she makes a
7 record of whatever is done. And I cover the matters. And if
8 there are questions, I answer the questions about how it is
9 going to proceed. In other words, it is essentially the
10 preparation for the trial to deal with any things that people
11 are not familiar with.

12 For example, I have my own system of selecting
13 jurors which differs from that of others. And I am not going
14 to go into the particulars now. We will cover that in the
15 course of our discussion. Each judge uses his or her own
16 method of selecting jurors. And the basic difference between
17 my system and the system that a lot of my colleagues operate
18 is that if, for example, they send 40 or 45 people up to the
19 courtroom for possible jury service, they follow a procedure
20 under which they hear from every one of those people in
21 advance of starting the jury selection system, which I think
22 is frankly pretty much a waste of time because the sequence
23 in which people are called for possible jury service is
24 determined by a computer.

25 So when people come up, let's say 40 or 45 people,

1 Sonya here reads off the first 12 names, and those people
2 start out sitting in the jury box and we ask them --
3 everybody gets a sheet that includes the autobiographical
4 information that they have to provide as they come into the
5 process. The first 12 people we know we are going to deal
6 with.

7 If any of them are excused for any reason -- and we
8 we will talk about that as well -- excused for challenges or
9 because of bias or because of prejudice, the next people on
10 the list are called. But meanwhile that system as you see
11 does not involve our having to spend a lot of time dealing
12 with all 40 to 45 people, many of whom are not going to get
13 called up here at all. They are there to provide both sides
14 the opportunity to exercise whatever challenges there are.

15 And that is really just a -- it is just a different
16 system. And it -- and it operates I think more efficiently
17 in the manner in which I follow it. But every judge has his
18 or her own method of procedure. So what we will -- let me
19 continue on the things that we need as a preliminary.

20 You have already done those two things, and you
21 will provide copies of that to Miss Phillips.

22 MR. STUMP: Yes, your Honor. I will just do that
23 right now on record, if that is all right.

24 THE COURT: Yes, fine.

25 MR. STUMP: And, your Honor, would you like a copy

1 right now or would you --

2 THE COURT: Yes. You can leave it with Sonya, yes.

3 Okay. Now what we will do is when I -- if we get a
4 call back, as I would hope, if it is going to be -- Piyush
5 Chandra was indicated as being the -- available. I don't
6 know whether he has other commitments. So that I can't tell.
7 But if we hear from him before we break, then I would arrange
8 to have him come here and we can simply talk about his
9 availability. If it is not --

10 THE DEFENDANT: Oh, sorry.

11 THE COURT: What I would suggest is that you give
12 Sonya here a phone number at which you could be reached. We
13 could then let you know who the person is, and then you can
14 decide that you do or you don't want to talk with that person
15 in advance of the Tuesday session. I would have -- expect to
16 have the standby counsel present during the Tuesday session
17 just for informational purposes, not for any decisional
18 purposes, because all decisions are yours. That is the
19 effect of your having exercised a constitutional right, which
20 you have the right to do.

21 So I think that is probably all we need now because
22 we haven't gotten a call back from them. So when I -- when
23 we hear, if you will leave with Sonya a phone number where
24 you can be reached, I would have her call and simply
25 communicate the information to you. And then it is your

1 decision whether you do or do not want to take advantage of
2 that for any reason before the Tuesday session, but otherwise
3 we will -- we will be seeing you at the 1:30 time on Tuesday.

4 Do you have any other questions?

5 THE DEFENDANT: Yes, I do, your Honor.

6 THE COURT: Sure, go ahead.

7 THE DEFENDANT: For the record again, if that
8 counsel or standby counsel as you say is appointed, again I
9 feel that would prejudice the defendant because I have
10 already objected to the standby counsel.

11 Also --

12 THE COURT: I would like you, if you would, because
13 it won't do just to mouth "prejudice" -- I would like you to
14 identify what your sense of the prejudice that would be
15 created by the situation that I have described in which you
16 are not obligated at all to consult with the -- the standby
17 counsel. Counsel is there as a potential resource for you,
18 and I emphasize "potential," which is basically your call.
19 And so if you will tell me in what respect that arrangement
20 is somehow prejudicial to you, I would like to know.

21 THE DEFENDANT: Because if -- if a right is a right
22 -- you are saying that if the Sixth Amendment allows for the
23 right to take place, if that is a right of the defendant to
24 do that, then appointing counsel contradicts that right.

25 THE COURT: Well, you misunderstand the system, and

1 I can't persuade you because you have got your mind made up.
2 You are just wrong. You are wrong. W-R-O-N-G, wrong.

3 THE DEFENDANT: Okay.

4 THE COURT: Okay? Any other questions?

5 THE DEFENDANT: Yes. You made mention to the prior
6 pleadings that were before the Court -- or the prior
7 administrative pleadings were before the Court. The
8 plaintiff has not objected to those pleadings. There has
9 been no response to those other pleadings.

10 THE COURT: Which pleadings are you talking about?

11 THE DEFENDANT: The information that -- the
12 administrative pleadings that has been submitted to the
13 Court.

14 THE COURT: What administrative pleadings to the
15 Court?

16 THE DEFENDANT: The administrative pleadings that
17 were submitted to the Court prior to today.

18 THE COURT: What are you talking about? You have
19 to tell me something besides "administrative." I don't even
20 know what you are talking about. If you would would help me
21 identify what it is you are speaking to. What is it that you
22 are talking about?

23 THE DEFENDANT: The information that was submitted
24 to the Court you mentioned last time that you were -- when we
25 were here.

1 THE COURT: What information are you talking about?

2 THE DEFENDANT: The information that was submitted
3 before.

4 THE COURT: What are you talking about? Don't talk
5 about information that was submitted before. I am not a mind
6 reader. Tell me what you are talking about.

7 THE DEFENDANT: Let's see. For the record, your
8 Honor, I would like to present a motion for production of the
9 Grand Jury testimony, if I could. And I will do that as well
10 in open court for the plaintiff and for yourself.

11 THE COURT: There has to be some ground for that.

12 MR. STUMP: Your Honor, if I could, I anticipate
13 that there will be witnesses who testified in the Grand Jury
14 who will also testify at the trial, and I will --

15 THE COURT: To the extent -- obviously to the
16 extent that those people are witnesses, that is something
17 that has to be made available to you for purposes of possible
18 cross-examination because if somebody has testified
19 differently in court from the way in which this person
20 testified before the Grand Jury, that is something you are
21 entitled to bring out. But that doesn't mean that you have a
22 blanket entitlement to anything that took place before the
23 Grand Jury. Anybody whose is testimony going to be
24 introduced or sought to be introduced by the Government who
25 has also been a witness before the Grand Jury, you are

1 certainly going to be entitled to receive and there will be
2 delivered to you the testimony of that person or those
3 persons. So that that is for your use for purposes of
4 examination of those witnesses.

5 THE DEFENDANT: Right. That is why I presented the
6 motions. Is that what you are telling me?

7 MR. STUMP: And, your Honor, I have no objection to
8 that. We will certainly do that. It is our requirement, and
9 we will do that.

10 THE COURT: That -- the Government is obligated to
11 do that, and there no objection to it certainly.

12 THE DEFENDANT: Okay, great.

13 THE COURT: Anything else?

14 THE DEFENDANT: No, that is it.

15 THE COURT: All right.

16 MR. STUMP: Your Honor, there was one other
17 document that you had requested for this date which was
18 proposed questions for voir dire.

19 THE COURT: Yes.

20 MR. STUMP: I have those as well. Can I submit
21 those at this time?

22 THE COURT: Please do.

23 And once again -- now on that subject -- once again
24 you will take a look at what the Government has proposed.
25 And if you find any of those objectionable, I expect that you

1 will be in a position to raise that during the voire dire
2 conference. And if there there are questions that you
3 yourself believe should be asked of prospective jurors, I
4 would like you to have -- to think about those after you have
5 had a chance to look at these and get a sense of it. And so
6 I will consider the questions that you may pose.

7 Now let me say that my -- some -- that my practice
8 is to conduct the voir dire questioning myself because I am
9 neutral, and I do not believe that the questioning during the
10 voir dire process is supposed to be a selling job on behalf
11 of either side, on behalf of the Government, on behalf of the
12 defendant.

13 Sonya, your phone is ringing there.

14 THE CLERK: That is in -- that is in my office,
15 yeah.

16 THE COURT: That is your office.

17 Now, along those lines whenever somebody provides
18 for me a proposed voir dire question that I think of as
19 loaded, that is, something that essentially partakes of
20 argument, I won't give it in that form. But there are often
21 questions that ought to be asked as two-sided questions, that
22 is, in terms of finding out whether jurors would be
23 influenced one way, I always create the counterpart of it so
24 that we find out -- that we emphasize to jurors --

25 Let me give you an example. I always tell jurors,

1 prospective jurors, that they are not to consider the
2 testimony of someone who is associated with the Government or
3 with law enforcement -- they are not to consider that
4 person's testimony any more or any less reliable than that of
5 anyone else who may come to trial to identify the person you
6 think I gets on and says, "I fly planes for United Airlines."
7 And, you know, therefore we want to make sure that the voire
8 dire process an is educational one as well as an inquiry. So
9 that I always pose that to prospective jurors and ask whether
10 anybody has any problem with applying that principle because
11 we can't afford to have somebody who will automatically take
12 the word, for example, of a Chicago Police Officer or will
13 automatically think that somebody is suspect because he or
14 she is a Chicago Police Officer. So I always give a sort of
15 two-sided question set in situations such as that.

16 But I am not suggesting what you ought to include.
17 I am simply saying that between now and then take a look at
18 what the Government has proposed, and if you have other
19 questions that you think ought to be asked in order to make
20 sure we get a fair and impartial jury, I would expect you to
21 submit those as well so that we would be in a position to
22 conduct the collection process appropriately. Okay?

23 THE DEFENDANT: Okay. I would like to also ask, is
24 there any remaining controversy, I should ask, between the
25 plaintiff and the defendant?

1 THE COURT: I don't know what you mean by
2 "remaining controversy."

3 THE DEFENDANT: Is there any remaining controversy
4 between the plaintiff and the defendant in lieu of the
5 administrative documents that were previously submitted?

6 THE COURT: I don't know what you are talking
7 about. You are going to have to be less opaque than that. I
8 don't know what you are talking about.

9 THE DEFENDANT: Okay.

10 THE COURT: When you were asked to identify
11 administrative documents, the one example you gave was the
12 one about the Grand Jury testimony. We already answered
13 that. What else are you talking about? Tell me.

14 THE DEFENDANT: Well, the question was just if
15 there was any remaining controversy between the plaintiff and
16 defendant.

17 THE COURT: I don't know what you mean. You can't
18 -- you may speak your own language. But if it is not
19 intelligible to other people, you are certainly competent to
20 frame it in a somewhat different way so that people will
21 understand what you are asking. And I can tell you you have
22 just asked an unintelligible question.

23 THE DEFENDANT: Okay.

24 THE COURT: So if you want to state one in a way
25 that somebody can understand it, I would be glad to listen.

1 So --

2 THE CLERK: Hi.

3 THE COURT: Is that Mr. Chandra?

4 THE CLERK: Yes.

5 THE COURT: Wait just a minute.

6 THE CLERK: Oh, there he is. We were just going to
7 tell you to call us.

8 THE COURT: Do you want to step up, please. And if
9 you would identify yourself for the record.

10 MR. CHANDRA: Piyush Chandra, Federal Defender
11 Program.

12 MR. CHANDRA: Good morning.

13 THE COURT: As I understand you are the duty lawyer
14 for today.

15 MR. CHANDRA: That is correct.

16 THE COURT: So that means that whatever things crop
17 up as matters today, you are the one to whom we look, right?

18 MR. CHANDRA: That's correct, Judge.

19 THE COURT: All right. The situation that we have
20 here is that Miss Phillips here is defendant in a criminal
21 case and has exercised her constitutional right to represent
22 herself under Faretta against California and similar cases.
23 I have determined that a resource should be made available to
24 her to make use or not make use of, as she chooses, to act as
25 standby counsel. So that -- and our trial is set to begin a

1 week from Monday, the 29th.

2 And how long, by the way, do we anticipate the
3 trial is likely to take?

4 MR. STUMP: Your Honor, this is similar to the
5 question I asked you. I would hope that my case would be
6 done, if we start Monday, by the end of the day on Wednesday.

7 THE COURT: Okay. So we are looking at probably a
8 one-week trial or so beginning the 29th. Do you have any
9 conflicts?

10 MR. CHANDRA: I do, Judge. I am -- I have tickets
11 out of town for about two and a half weeks, but I can try to
12 see if we can find today another attorney that could be
13 available for that.

14 THE COURT: All right. Let's please do that under
15 their regular system of designation.

16 MR. CHANDRA: Yes.

17 THE COURT: I know that the list that I had gotten
18 from the Executive Director had listed -- had listed Imani
19 Chiphe I think, and I think that got changed and --

20 MR. CHANDRA: It did. It did, Judge, yes.

21 THE COURT: So what we are going to do, we will
22 have Miss Phillips' phone number so that once we get somebody
23 designated, the -- she will be in a position to speak with
24 the person or not, as she chooses, in advance of the trial.
25 We do have scheduled a voir dire conference next Tuesday, the

1 23rd, at -- what did we say, 1:30?

2 MR. STUMP: 1:30.

3 THE COURT: -- at 1:30. And I would like the
4 standby counsel to be there again as a potential resource,
5 but explaining, as I have explained to Ms. Phillips a number
6 of times, that person is not her lawyer and it is entirely
7 her choice as to the extent, if at all, that she anticipates
8 asking for some assistance on purely procedural aspects,
9 which is her call. And it means we want to have somebody
10 available.

11 So that is going the one day, the voir dire
12 conference at Tuesday at 1:30. And the trial is scheduled to
13 begin on Monday July 29th at 9:30 and will be expected to run
14 in all likelihood somewhere close to the full week I would
15 think. Okay?

16 MR. CHANDRA: Yes, Judge.

17 THE COURT: Thank you very much.

18 MR. CHANDRA: You are welcome, your Honor.

19 THE COURT: You are discharged to active duty.

20 MR. CHANDRA: If I may have just a moment to speak
21 with the defendant for a second just to get some contact
22 information.

23 THE COURT: Surely, if she wishes to.

24 THE DEFENDANT: I do not wish to, sir.

25 THE COURT: She doesn't want to.

1 THE DEFENDANT: Pardon me, no offense.

2 MR. CHANDRA: None taken.

3 THE COURT: All right. Thank you very much.

4 MR. CHANDRA: Judge, may I have a -- I can get this
5 information later, if I am interrupting things, but a case
6 number or --

7 THE COURT: Oh, it is -- the case number is 12 CR
8 872.

9 MR. CHANDRA: Thank you.

10 THE COURT: Case name is United States against
11 Cherron -- that is C-H-E-R-R-O-N -- Marie, spelled the common
12 way -- Phillips with two l's.

13 MR. CHANDRA: Thank you, your Honor.

14 THE COURT: Thank you.

15 So if you will give Sonya your phone number so when
16 I find out who it is, we can pass the word along to you. And
17 as I say you have no obligation to make use of it and -- but
18 you can expect to see whoever the standby counsel is to be
19 present at the voir dire conference on Tuesday. Okay?

20 Any other questions or issues?

21 MR. STUMP: Your Honor, is there currently a
22 deadline for pretrial motions?

23 THE COURT: Well, actually the deadline has long
24 since passed for pretrial motions. We have been -- we have
25 been at this one, and to my knowledge there have -- there are

1 no preliminary motions that stand in the way of just starting
2 our trial in substantive terms.

3 MR. STUMP: Yes, sir.

4 THE COURT: Okay? Anything else?

5 THE DEFENDANT: Yes. How long would it take for me
6 to obtain the Grand Jury -- the motion that was just entered
7 for the Grand Jury testimony.

8 MR. STUMP: Your Honor, I am happy to speak with
9 Miss Phillips immediately after this proceeding to work out
10 with her when we can get that to her. It would be very soon.

11 THE COURT: Fine, very soon. I would expect that
12 it is going to be no later than early next week so that she
13 gets several days in which she may view that and consider it.

14 MR. STUMP: Yes, sir.

15 THE COURT: Considering the purpose for which it
16 may be used.

17 MR. STUMP: We will certainly have it to her by the
18 Tuesday voir dire conference. If I can get it to her before
19 then, I will.

20 THE COURT: Okay. Anything else?

21 THE DEFENDANT: Is there any way I can get it
22 today?

23 MR. STUMP: As I say, I will work on it, your
24 Honor. I actually don't have a copy with me or I would just
25 go make a copy.

1 THE COURT: Yes.

2 MR. STUMP: So I have to track it down, but I will
3 work on that.

4 THE COURT: Okay. I guess that is it. Thank you
5 both.

6 MR. STUMP: Thank you, your Honor.

7 THE CLERK: This Court stands in recess until 1:15
8 p.m.

9 (Which were all the proceedings heard.)

10 CERTIFICATE

11 I certify that the foregoing is a correct transcript
12 from the record of proceedings in the above-entitled matter.

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14 s/Rosemary Scarpeilli/ Date: February 11, 2015

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